THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.4853 of 2007

Dated:09.03.2007

Between:

The Returning Officer, Rampadu Gram Panchayat.

…Petitioner

and

Mummadireddy Rami Reddy and others.

…Respondents

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ORDER:

In the elections to the Office of Sarpanch of Rampadu Gram Panchayat held on 02.08.2006, the fifth respondent was elected as Sarpanch. The first respondent herein who was one of the contestants filed E.O.P.No.3 of 2006 on the file of the Court of the Election Tribunal-cum-District Munsif, Badvel, Kadapa District, challenging the election of the fifth respondent on the ground that he committed rigging the votes of dead persons and also the votes of the persons who were non resident Indians and not resident of the Village. In the said E.O.P the first respondent preferred I.A.No.608 of 2006 under Order XVI Rules 1 and 6 of the Code of Civil Procedure, 1908, praying the Election Tribunal to send for the election material, namely, ballot boxes, unused ballot papers, counterfoils of used ballot papers, voters list maintained by Presiding Officer while issuing the ballots and the elections record relating to 8 wards. On 08.02.2007 the Election Tribunal allowed the said application observing that it is necessary to call for the said ballot boxes and other material used in election. Aggrieved by this order, the Returning Officer of Rampadu Gram Panchayat filed the present Writ Petition seeking its invalidation.

The dispute is between the fifth respondent (elected candidate) and the first respondent who lost the election. In the E.O.P filed by the first respondent, the District Election Authority, Kadapa, the Deputy

Election Authority-cum-Revenue Divisional Officer, Rajampet, the Election Officer-cum-Mandal Parishad Development Officer, Kasinayana Mandal and the Election Officer, Stage-II, Rampadu Gram Panchayat are arrayed as respondents 1 to 4 whereas all the candidates who contested the elections are shown as respondents 5 to 13. The Returning Officer is not at all a party to the Election Petition. Even assuming that the Returning Officer is none other than the Election Officer of Rampadu Gram Panchayat, who is arrayed as respondent No.3 in the E.O.P, he has no *locus standi* to question the order of the Election Tribunal. As public authority having conducted the election, it is the duty of the Election Officer/Returning Officer to obey the orders of the Election Tribunal. Be it noted, under Article 243-O of the Constitution of India the dispute regarding election can be agitated only before the Election Tribunal and the Returning Officer cannot take sides and adjudicate the matter. If the elected candidate is aggrieved by the order of the Election Tribunal on any ground, it is always open to him to challenge the order. The Election Officer/Returning Officer has no *locus standi* to question the order of the Election Tribunal.

The Writ Petition is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

09.03.2007

vs